

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

JOHN BARNHARDT, et al.,	)	
	)	
Plaintiffs,	)	
	)	
and	)	
	)	
UNITED STATES OF AMERICA,	)	Civil Action No. 4:65-cv-01300-HTW-LRA
	)	1300(E)
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
MERIDIAN MUNICIPAL SEPARATE	)	
SCHOOL DISTRICT, et al.,	)	
	)	
Defendants.	)	
	)	

**PRIVATE PLAINTIFFS’ MOTION FOR A STAY OF BRIEFING TO RESPOND TO  
DISTRICT’S MOTION FOR DECLARATION OF UNITARY STATUS  
AND REQUEST FOR SCHEDULING CONFERENCE**

Plaintiffs John Barnhardt *et al.* (collectively, “Private Plaintiffs”) hereby respond to the Motion for Declaration of Unitary Status (the “Motion”), ECF No. 53, filed by Defendant Meridian Municipal Separate School District (the “District”), in the above-captioned case. Private Plaintiffs respectfully request the Court stay its consideration of the Motion and to hold a scheduling conference, enabling the Court to set deadlines for fact and expert discovery, and an evidentiary hearing regarding the District’s unitary status. In support of the foregoing, Private Plaintiffs state the following:

1. On November 7, 1969, November 19, 1969, March 30, 1970, and August 6, 1970, the U.S. Court of Appeals for the Fifth Circuit issued a desegregation plan and amendments to the plan, enjoining the District from operating a dual school system based on race or color and requiring the District to operate a unitary school system free from the vestiges of segregation. 5th Cir. Order (Nov. 7, 1969); 5th Cir. Order Am. Deseg. Plans of Meridian Mun. Sep. Sch. Dist.

(Nov. 19, 1969); 5th Cir. Order (Mar. 30, 1970); 5th Cir. Order Adopting Judge Dan M. Russell's Findings & Recs. dated July 14, 1970 (Aug. 6, 1970).

2. On May 30, 2013, this Court issued a Consent Order concerning the District's disciplinary practices to ensure that the District administers student discipline in a non-discriminatory manner and reduces the disproportionate assignment of exclusionary sanctions to Black students. ECF No. 36.

3. On March 29, 2018, the District filed the Motion with the Court seeking a declaration of unitary status and termination of Court supervision.

4. Private Plaintiffs have engaged in an ongoing review of the District's desegregation efforts, including, to the extent possible,<sup>1</sup> reviewing the District's semi-annual reports, conducting site visits of the District's schools in May 2016 and April 2017, and requesting and reviewing additional relevant information from the District.

5. As a result of the abovementioned ongoing review, the Private Plaintiffs have identified possible areas of concern related to the District's compliance with the desegregation plans and 2013 Consent Order in the areas of student assignment; quality of education; faculty and staff; discipline administration; and the District's relationship with law enforcement agencies.

6. As detailed in the separately filed Memorandum of Law, Private Plaintiffs require additional information to assess whether one or more of the identified areas of concern, including those issues listed in paragraph 5 above, are due to any District noncompliance with the 2013 Consent Order and its desegregation obligations under federal law.

7. Private Plaintiffs have also retained the services of experts to assist in the review of the District's compliance with its desegregation obligations, and these experts require additional

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<sup>1</sup> Private Plaintiffs did not begin to receive discipline data with student identifying numbers directly from the District until September 28, 2017, after the Court approved Private Plaintiffs' request to amend the 2013 Consent Decree on July 12, 2017. ECF No. 51.

time and information, including site visits and information from school officials, in order to conduct their analyses.

8. After completing discovery, Private Plaintiffs intend to identify potential areas of agreement with the District in order to narrow the issues relevant to the Court's analysis of whether the District has met its desegregation obligations under federal law.

9. To that end, Private Plaintiffs request a stay of briefing on the Motion to conduct the necessary fact and expert discovery, including on-site discovery, depositions of relevant school district employees, and the exchange of expert reports.

10. During the requested stay, Private Plaintiffs will continue to attempt to resolve any issues amicably with the District with limited intervention from the Court and to narrow the issues requiring Court review.

11. In addition to a stay, Private Plaintiffs request this Court to hold a scheduling conference to set deadlines for fact and expert discovery, briefing on the Motion, and to schedule an evidentiary hearing. At a hearing, the parties, with the benefit of formal discovery, will present evidence squarely addressing any remaining disputes among the parties so that the Court can determine whether the District has met its desegregation obligations under federal law.

This motion is based on Private Plaintiffs' supporting Memorandum and the following:

Declaration of Natasha Merle

Exhibit 1: November 16, 2017 email from counsel for Private Plaintiffs to counsel for the  
District

Exhibit 2: December 12, 2017 email from counsel for Private Plaintiffs to counsel for the  
District

Exhibit 3: December 13, 2017 email from the District to counsel for Private Plaintiffs

Accordingly, Private Plaintiffs respectfully request this Court to stay briefing on the Defendant's Motion, and to hold a scheduling conference during which the Court can set deadlines for fact and expert discovery, briefing, and an evidentiary hearing. In accordance with Local Rule 7(b)(10), Private Plaintiffs have conferred with the United States and the District about this non-dispositive motion. The United States does not oppose Private Plaintiffs' Motion. The District opposes the motion.

Respectfully submitted this 6th day of April 2018.

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*Counsel for Private Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of April 2018, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel record.

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